

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

**UNITED STATES OF AMERICA** )

**Criminal No.: 2:09-00317**

**GRANTED**

**-versus-** )

Case will proceed as  
scheduled on 3/1/2010 as to  
Count 1. Count 2 is  
continued to next term.

**Frank A. Smith, Jr.,** )  
**Defendant** )

**Motion to Sever**

January 12, 2010

  
PATRICK MICHAEL DUFFY  
United States District Judge

Pursuant to Rule 14 and Rule 8(a) Federal Rules of Criminal Procedure, the Defendant, Frank A. Smith, moves through his undersigned attorney, that the Court issue and Order severing the indictments and trials stemming from Defendant's arrest on September 29, 2007 for Distribution of Methamphetamine and April 22, 2008 for Possession of a Firearm.

I. Facts

Count One of the Indictment alleges that on September 29, 2007 a Confidential Informant purchased 0.3 grams of methamphetamine for Defendants Frank A. Smith and Marcus A. Waters under the direction of the Greenville County Sheriff's Office and the South Carolina Law Enforcement Division. The Government alleges that said transaction occurred inside the clubhouse of the Charleston chapter of the Hell's Angels Motorcycle Club located at 9208 Wisteria Street, Ladson, South Carolina.

Count Two of the Indictment alleges that on April 22, 2008 Summerville Police Sergeant Doug Wright observed a Dodge Magnum automobile parked at a gas station. After checking the license plate through the Department of Motor Vehicle database, Sergeant Wright learned the tag was suspended. A traffic stop was conducted on the vehicle. The vehicle was being operated by Defendant Marcus Waters and Defendant Frank A. Smith was riding in the right front passenger-seat. During a pat down search for weapons, a small caliber pistol was located in the left front pocket of Defendant Smith's leather vest. In 1989 Defendant Smith was convicted of a crime punishable by imprisonment for a term exceeding one year.